

## **FINAL STATEMENT OF REASONS**

### **UPDATE OF INITIAL STATEMENT OF REASONS**

There were two comments received by the Commission during the public comment period. One comment was submitted from the regulated community and the other from the San Francisco Bay Conservation and Development Commission (BCDC) which is a member of the Review Subcommittee of the State Interagency Oil Spill Committee, (Government Code §8574.10). The response to the comment submitted by the regulated community is included in this final statement of reasons. Please see Part "F" of this rulemaking file for response to the comment submitted by the Review Subcommittee member.

After careful consideration, the Commission believes that these comments would not be more effective in carrying out the purpose of these proposed regulations. Therefore, modifications to the originally proposed text of regulations were unnecessary. Consequently, the Commission has determined that an update of the Initial Statement of Reasons is therefore unnecessary.

### **LOCAL MANDATE DETERMINATION**

The proposed regulation does not impose any mandate on local agencies or school districts.

### **SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF AUGUST 30, 2002 THROUGH OCTOBER 22, 2002.**

#### **Written Comments of Mr. Richard D. Sandell, Operations Manager, PAKTANK CORPORATION**

COMMENT NO. 1: Mr. Sandell initially states that PAKTANK's primary business is the safe and efficient handling of bulk liquids at his facility. He adds that there are many regulations in place to ensure that this occurs in a safe and environmentally sound manner. With regard to the regulations, Mr. Sandell states that PAKTANK feels that the proposed security regulations may be unduly burdensome for facilities that rely primarily on the Los Angeles Police Department, the Port Police and the U.S. Coast Guard as the forefront of security. To support the above statement, he states that "It may be an interpretation issue, but in many respects the regulations seem to expect terminal personnel to function as quasi-security officers, and we do not feel that this is reasonable, given the many other

duties they are expected to carry out." Mr. Sandell acknowledges that terminals need to ensure that their security infrastructure is sound and that terminal personnel need to act as the "eyes and ears" for the Police and Coastguard who cannot cover every inch of the ports around the clock. Mr. Sandell suggests that the emphasis of the regulations should be on awareness and vigilance and recommends that the Commission rethink many of the requirements which go well beyond awareness and vigilance. As an example, Mr. Sandell cites the requirements for vehicle searches and states that they could definitely be problematic for terminal personnel or contract security personnel to carry out.

Response:

This comment does not specifically address any particular requirement of the proposed regulations. The comment is merely an expression of opinions by the commenter.

Firstly, Mr. Sandell is correct in stating that primary business is the safe and efficient handling of bulk liquids at his facility and that there are many regulations in place to ensure that this occurs in a safe and environmentally sound manner.

With regard to the comment that the proposed security regulations may be unduly burdensome for facilities that rely primarily on the Los Angeles Police Department, the Port Police and the U.S. Coast Guard as the forefront of security, the Commission does not agree with the commenter. This comment is the only comment that the Commission has received. The Commission has 77 marine oil terminals under its jurisdiction. None of the other terminals have expressed similar concerns about the regulations being burdensome. Therefore, the Commission finds it difficult to understand the authenticity of the comment.

As he indicates in his letter, it is possible that Mr. Sandell has misinterpreted the requirements of the proposed regulations. The regulations are mainly requirements for preventive and deterrent measures as stated in §2433. The regulations do not include any provisions for response. Response functions are carried out by the local police, law enforcement agencies and the U.S. Coast Guard. It is presumed that Mr. Sandell's reference to terminal personnel functioning as quasi-security officers in a response situation is a misinterpretation of the regulation.

Lastly, Mr. Sandell cites the requirement for vehicle searches as an example of the regulations being problematic for terminal personnel or contract security personnel to carry out. The Commission finds it difficult to understand the comment without the commenter being specific as to how the requirement is problematic. There is no substance in the comment to show how the requirement is problematic. No other comment of this nature has been received by the Commission. Therefore, the Commission assumes that all other terminals do not find the requirement to be problematic.

The Commission does not believe that there is a need for modification of the regulations because of this comment.